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| APPLICATION NO.                                                                                          | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.               | CONFIRMATION NO.       |
|----------------------------------------------------------------------------------------------------------|-------------|----------------------|-----------------------------------|------------------------|
| 10/674,417                                                                                               | 10/01/2003  | Peter Danko          | 046201-0109                       | 5128                   |
| Charles F Schill<br>7590<br>STEPTOE & JOHNSON LLP<br>1330 Connecticut Avenue N W<br>Washington, DC 20036 |             |                      | EXAMINER<br>SCHATZ, CHRISTOPHER T |                        |
|                                                                                                          |             |                      | ART UNIT<br>1791                  | PAPER NUMBER           |
|                                                                                                          |             |                      | MAIL DATE<br>09/16/2008           | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/674,417

**Applicant(s)**

DANKO, PETER

**Examiner**

CHRISTOPHER SCHATZ

**Art Unit**

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,6-12,14,15 and 31-44 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-9,11,12,14 and 31-44 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/888)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. The request filed on 07/07/2008 for a RCE under 37 CFR 1.114 based on parent Application No. 10/674,417 is acceptable and a RCE has been established. An action on the RCE follows.

### ***Withdrawn Rejections***

2. The 35 U.S.C. 112, First Paragraph rejection set forth in the first paragraph of section 2 of the office action dated January 7, 2008 has been withdrawn.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 is dependent upon claim 4, which has been cancelled. It is recommended that applicant cancel claim 10, as the claim is directed to an embodiment that is no longer supported by claim 1.

### ***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 31-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Leatherman et al. (US 5384002).

As to claim 31, Leatherman teaches a method of closing an open end of a corrugated thermoplastic panel having a first layer 2 with a first free end and a second layer 3 with a second free end, the first layer being spaced from the second layer by a rib 4 extending from the first layer to the second layer, the first and second free ends defining a first open end (column 4, lines 25-45), and the first and second layers being heat sealable to each other, wherein the rib is thermoplastic and the method comprises: guiding the first free end between spaced first and second guides 14 (figure 4) configured to contact and guide the first layer along a guide surface and simultaneously moving the second layer to contact the first guide, wherein the first guide comprises a heated body, so that a first portion of the first layer bends and abuts a second portion of the second layer and heat sealing the abutting first and second portions to each other to form a closed end extending proximate an edge of the thermoplastic panel and to define a space between the rib and the closed end (Figures 4-10; column 4, line 66 – column 5, line 15; column 6, line 61 – column 7, line 27). Applicant's attention is particularly directed to column 5, lines 3-5 and figure 4, where the reference discloses that the guides or "forming units" can be disposed on both sides of the panel. This disclosure reads on the limitation "first and second guides".

As to claim 37, all the limitations were addressed with respect to claim 31 except for the panel having a plurality of interior regions. Leatherman teaches this limitation (Figures 1-3).

As to claims 32-36 and 38-42, Leatherman teaches such (Figures 4-10; column 4, line 66 – column 5, line 15; column 6, line 61 – column 7, line 27).

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 2, 6-9, 11, 12, 14, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter (US 6037033) in view Gable et al. (US 2994361, newly cited).

Hunter teaches a method of closing an open end of a ribbed thermoplastic panel having a first layer 14 with a first end and a second layer 16 with a second end, the first layer being spaced apart from the second layer by a rib 20 directly interconnected therewith and extending from the first layer to the second layer (Figures 5 and 17-18), the first and second ends defining the open end, the first and second layers being heat weldable or fusible, wherein the rib is formed of a thermoplastic material (column 5, lines 13-27; column 6, lines 7-12; column 9, lines 18-20), the method comprising steps of: bending the first layer such that said first layer contacts the second layer; and fusing the first and second layers by heating at least one of a portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer to form a closed end extending proximate an edge of the ribbed thermoplastic panel and to define a space between the rib and the closed end (Figures 5 and 17-18; column 5, lines 23-28). It is unclear if Hunter discloses a method wherein the first layer is rolled

between spaced first and second guides configured to contact the first layer and guide the first layer along a heated guide surface toward the second layer.

Gable discloses a method of edge sealing thermoplastic ends 10, 11 (column 2, lines 22-27) of first 1 and second 2 thermoplastic layers, said method comprising rolling (figure 5) the first layer between spaced first 6 and second 5 guides, said guides configured to contact the first layer and guide the first layer along a heated guide surface 12 toward the second layer, contacting the first and second layers, and simultaneously moving the second layer to contact the first guide 6 (page 1, column 2, line 71 – page 2, column 1, line 47). Such a method of edge sealing two thermoplastic sheets produces a strong bond between edges of the two sheets (page 2, column 3, lines 39-47). Therefore, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to fuse the first and second ends of Hunters panel by the fusing method disclosed by Gable above. Such a modification to the method of Hunter would produce a superior bond between the ends of each layer. As to claims 2 and 6, Hunter discloses overlapping of the layers (figure 18). As to claims 7 and 8, Gable discloses a method wherein the portions of both the first and second layer that contact each other are simultaneously heated (figure 1). As to claim 9, Hunter discloses such (figure 18). As to claim 11, both references disclose trimming such that the layer are equal in length (see figures). As to claim 12, Gable discloses a method of pressing and cooling the fused layers (column 3, lines 19-45).

As to claim 43, all the limitations were addressed with the exception of the guide

being in the shape of a shoe. Gable discloses such (column 4, line 11; figure 3). As to claim 44, Hunter discloses the thermoplastic layers as flexible.

### ***Response to Arguments***

Applicant's arguments filed July 7, 2008 with respect to claim 1, 2, 6-12 and 14 are moot in light of the examiner's new grounds of rejection.

With respect to the applicant's arguments filed on October 23, 2007 stating that Leatherman does not disclose the guides as currently recited in claims 31 and 37, the examiner respectfully disagrees with applicant's assertion. As noted in section 5 above, Leatherman discloses an embodiment wherein the guides are on both sides of the panel. In such an embodiment, the first guide is heated, the first and second layers contact the first guide before said surfaces of said first and second layers abut each other.

It should be noted that if the applicant amends line 7 of claim 31 and line 8 of claims 37 in the following manner "guiding rolling the first free end between spaced first and second guides", claims 31-42 will be placed in condition for allowance.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER SCHATZ whose telephone number is 571-272-6038. The examiner can normally be reached on Monday through Friday 9 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER SCHATZ/  
Examiner, Art Unit 1791

/Richard Crispino/  
Supervisory Patent Examiner, Art Unit 1791